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STATE DOCUMENTS

MAR 22 1972

MONTANA CONSTITUTIONAL CONVENTION

1971-1972

REPORT OF COMMITTEE ON STYLE, DRAFTING, TRANSITION AND SUBMISSION

ON

BILL OF RIGHTS

No VIII

Date Reported: March 13, 1972

John M. Schultz, Chairman

William L. Burkhardt, Vice Chairman

TO: Montana Constitutional Convention


SUBJECT: BILL OF RIGHTS

Ladies and Gentlemen:

The Committee on Style, Drafting, Transition and Submission transmits revisions of the above Article for consideration of the Convention.

Immediately following this letter you will find the above Article as revised by the Committee. Following that is the Article indicating (by underlining) words we have added and (by crossing out) words we have deleted from the Article as approved. Finally, there is an explanation of the changes we have made.

Sincerely,



John M. Schiltz, Chairman of the
Committee on Style, Drafting,
Transition and Submission



William A. Burkhardt, Vice Chairman
of the Committee on Style, Drafting,
Transition and Submission

1 BE IT PROPOSED BY THE BILL OF RIGHTS COMMITTEE:

2 That there be a new Article on the Bill of Rights
3 to read as follows.

4
5 PREAMBLE

6 We the people of Montana grateful to God for the
7 quiet beauty of our state, the grandeur of our mountains,
8 the vastness of our rolling plains, and desiring to
9 improve the quality of life, equality of opportunity and
10 to secure the blessings of liberty for this and future
11 generations do ordain and establish this constitution.

12
13 ARTICLE _____

14 DECLARATION OF RIGHTS

15 Section 1. POPULAR SOVEREIGNTY. All political power
16 is vested in and derived from the people. All government
17 of right originates with the people, is founded upon
18 their will only, and is instituted solely for the good of
19 the whole.

20 Section 2. SELF-GOVERNMENT. The people have the
21 exclusive right of governing themselves as a free, sovereign,
22 and independent state. They may alter or abolish the consti-
23 tution and form of government whenever they deem it
24 necessary.

25 Section 3. INALIENABLE RIGHTS. All persons are born
26 free and have certain inalienable rights. They include the
27 right to a clean and healthful environment and the rights
28 of pursuing life's basic necessities, enjoying and defending
29 their lives and liberties, acquiring, possessing and protect-
30 ing property, and seeking their safety, health and happiness

1 in all lawful ways. In enjoying these rights, all persons
2 recognize corresponding responsibilities.

3 Section 4. INDIVIDUAL DIGNITY. The dignity of the
4 human being is inviolable. No person shall be denied the
5 equal protection of the laws. Neither the state nor any
6 person, firm, corporation, or institution shall discriminate
7 against any person in the exercise of his civil or political
8 rights on account of race, color, sex, culture, social origin
9 or condition, or political or religious ideas.

10 Section 5. FREEDOM OF RELIGION. The state shall make
11 no law respecting an establishment of religion or prohibiting
12 the free exercise thereof.

13 Section 6. FREEDOM OF ASSEMBLY. The people shall have
14 the right to assemble peaceably in order to petition for
15 redress of grievances or protest governmental action.

16 Section 7. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.
17 No law shall be passed impairing the freedom of speech or
18 expression. Every person shall be free to speak or publish
19 whatever he will on any subject, being responsible for all
20 abuse of that liberty. In all suits and prosecutions for
21 libel or slander the truth thereof may be given in evidence;
22 and the jury, under the direction of the court, shall
23 determine the law and the facts.

24 Section 8. RIGHT OF PARTICIPATION. The public has the
25 right to expect governmental agencies to afford such reason-
26 able opportunity for citizen participation in the operation
27 of the agencies prior to the final decision as may be
28 provided by law.

29 Section 9. RIGHT TO KNOW. No person shall be deprived
30 of the right to examine documents or to observe the

1 deliberations of all public bodies or agencies of state
2 government and its subdivisions, except in cases in which
3 the demand of individual privacy clearly exceeds the
4 merits of public disclosure.

5 Section 10. RIGHT OF PRIVACY. The right of indivi-
6 dual privacy is essential to the well-being of a free
7 society and shall not be infringed without the showing of
8 a compelling state interest.

9 Section 11. SEARCHES AND SEIZURES. The people shall
10 be secure in their persons, papers, homes and effects from
11 unreasonable searches and seizures. No warrant to search
12 any place, or seize any person or thing shall issue with-
13 out describing the place to be searched or the person or
14 thing to be seized, or without probable cause, supported
15 by oath or affirmation reduced to writing.

16 Section 12. RIGHT TO BEAR ARMS. The right of any
17 person to keep or bear arms in defense of his own home,
18 person, and property, or in aid of the civil power when
19 thereto legally summoned, shall not be called in question,
20 but nothing herein contained shall be held to permit the
21 carrying of concealed weapons.

22 Section 13. RIGHT OF SUFFRAGE. All elections shall
23 be free and open, and no power, civil or military, shall
24 at any time interfere to prevent the free exercise of the
25 right of suffrage.

26 Section 14. ADULT RIGHTS. A person 18 years of age
27 or older is an adult for all purposes.

28 Section 15. RIGHTS OF PERSONS NOT ADULTS. The rights
29 of persons under 18 years of age shall include, but not be
30 limited to, all the fundamental rights of this article

1 unless specifically precluded by laws which enhance the
2 protection of such persons.

3 Section 16. THE ADMINISTRATION OF JUSTICE. Courts of
4 justice shall be open to every person, and speedy remedy
5 afforded for every injury of person, property, or character.
6 No person shall be deprived of this full legal redress for
7 injury incurred in employment for which another person may
8 be liable except as to fellow employees and his immediate
9 employer who hired him if such immediate employer provides
10 coverage under the Workmen's Compensation Laws of this
11 state. Right and justice shall be administered without
12 sale, denial, or delay.

13 Section 17. DUE PROCESS OF LAW. No person shall be
14 deprived of life, liberty, or property without due process
15 of law.

16 Section 18. STATE SUBJECT TO SUIT. The state, counties,
17 cities, towns, and all other local governmental entities
18 shall have no immunity from suit for injury to a person or
19 property. This provision shall apply only to causes of action
20 arising after July 1, 1973.

21 Section 19. HABEAS CORPUS. The privilege of the writ
22 of habeas corpus shall never be suspended.

23 Section 20. INITIATION OF PROCEEDINGS. (1) Criminal
24 offenses within the jurisdiction of any court inferior to the
25 district court shall be prosecuted by complaint. All criminal
26 actions in district court, except those on appeal, shall be
27 prosecuted either by information, after examination and commit-
28 ment by a magistrate or after leave granted by the court, or
29 by indictment without such examination, commitment, or leave.

30 (2) A grand jury shall consist of eleven persons,

1 of whom eight must concur to find an indictment. A grand
2 jury shall be drawn and summoned only at the discretion and
3 order of the district judge.

4 Section 21. BAIL. All persons shall be bailable by
5 sufficient sureties, except for capital offenses, when
6 the proof is evident or the presumption great.

7 Section 22. EXCESSIVE SANCTIONS. Excessive bail
8 shall not be required, or excessive fines imposed, or
9 cruel and unusual punishments inflicted.

10 Section 23. DETENTION. No person shall be imprisoned
11 for the purpose of securing his testimony in any criminal
12 proceeding longer than may be necessary in order to take
13 his deposition. If he can give security for his appear-
14 ance at the time of trial, he shall be discharged upon
15 giving the same; if he cannot give security, his deposition
16 shall be taken in the manner provided by law, and in the
17 presence of the accused and his counsel, or without their
18 presence, if they shall fail to attend the examination
19 after reasonable notice of the time and place thereof.
20 Any deposition authorized by this section may be received
21 as evidence on the trial, if the witness shall be dead or
22 absent from the state.

23 Section 24. RIGHTS OF THE ACCUSED. In all criminal
24 prosecutions the accused shall have the right to appear
25 and defend in person and by counsel; to demand the nature
26 and cause of the accusation; to meet the witnesses against
27 him face to face; to have process to compel the attendance
28 of witnesses in his behalf, and a speedy public trial by
29 an impartial jury of the county or district in which
30 the offense is alleged to have been committed, subject

1 to the right of the state to have a change of venue for.
2 any of the causes for which the defendant may obtain the
3 same.

4 Section 25. SELF-INCRIMINATION AND DOUBLE JEOPARDY.
5 No person shall be compelled to testify against himself
6 in a criminal proceeding. No person shall be again put
7 in jeopardy for the same offense previously tried in any
8 jurisdiction.

9 Section 26. TRIAL BY JURY. The right of trial by
10 jury is secured to all and shall remain inviolate. But
11 upon default of appearance or by consent of the parties
12 expressed in such manner as the law may provide, all cases
13 may be tried without a jury or before fewer than the number
14 of jurors provided by law. In all civil actions, two-thirds
15 of the jury may render a verdict, and a verdict so rendered
16 shall have the same force and effect as if all had concurred
17 therein. In all criminal actions, the verdict shall be
18 unanimous.

19 Section 27. IMPRISONMENT FOR DEBT. No person shall
20 be imprisoned for debt except in the manner provided by
21 law, upon refusal to deliver up his estate for the bene-
22 fit of his creditors, or in cases of tort, where there
23 is strong presumption of fraud.

24 Section 28. RIGHTS OF THE CONVICTED. Laws for the
25 punishment of crime shall be founded on the principles of
26 prevention and reformation. Termination of state supervision
27 for any offense against the state shall restore all civil and
28 political rights.

29 Section 29. EMINENT DOMAIN. Private property shall
30 not be taken or damaged for public use without just

1 compensation to the full extent of the loss having been first
2 made to or paid into court for the owner. In the event of
3 litigation, just compensation shall include necessary
4 expenses of litigation to be awarded by the court when the
5 private property owner prevails.

6 Section 30. TREASON AND DESCENT OF ESTATES. Treason
7 against the state shall consist only in levying war against
8 it, or in adhering to its enemies, giving them aid and
9 comfort; no person shall be convicted of treason except on
10 the testimony of two witnesses to the same overt act, or
11 on his confession in open court; no person shall be attaint-
12 ed of treason or felony by the legislature; no conviction
13 shall cause the loss of property to the relatives or heirs
14 of the convicted. The estates of suicides shall descend or
15 vest as in cases of natural death.

16 Section 31. EX POST FACTO, OBLIGATION OF CONTRACTS,
17 AND IRREVOCABLE PRIVILEGES. No ex post facto law nor any
18 law impairing the obligation of contracts, or making any
19 irrevocable grant of special privileges, franchises, or
20 immunities, shall be passed by the legislature.

21 Section 32. CIVILIAN CONTROL OF THE MILITARY. The
22 military shall always be in strict subordination to the
23 civil power; no soldier shall in time of peace be
24 quartered in any house without the consent of the owner,
25 nor in time of war, except in the manner provided by law.

26 Section 33. IMPORTATION OF ARMED PERSONS. No armed
27 person or persons or armed body of men shall be brought
28 into this state for the preservation of the peace, or the
29 suppression of domestic violence, except upon the
30 application of the legislature, or of the governor when

1 the legislature cannot be convened.

2 Section 34. UNENUMERATED RIGHTS. The enumeration in
3 this constitution of certain rights shall not be construed
4 to deny, impair, or disparage others retained by the people.

5 Section 35. SERVICEMEN, SERVICEWOMEN, AND VETERANS.
6 The people declare that Montana servicemen, servicewomen,
7 and veterans may be given special considerations determined
8 by the legislature.

1 BE IT PROPOSED BY THE BILL OF RIGHTS COMMITTEE:

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3 to read as follows:

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5 PREAMBLE

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7 quiet beauty of our state, the grandeur of our mountains,
8 the vastness of our rolling plains, and desiring to
9 improve the quality of life, equality of opportunity and
10 to secure the blessings of liberty for this and future
11 generations do ordain and establish this constitution.

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20 Section 2. SELF-GOVERNMENT. The people ~~of the state~~
21 have the exclusive right of governing themselves as a
22 free, sovereign, and independent state. They may alter or
23 abolish ~~their~~ the constitution and form of government when-
24 ever they ~~may~~ deem it necessary.

25 Section 3. INALIENABLE RIGHTS. All persons are born
26 free and have certain inalienable rights. ~~which~~ They include
27 the right to a clean and healthful environment, and the rights
28 of pursuing life's basic necessities, ~~of~~ enjoying and defend-
29 ing their lives and liberties, ~~of~~ acquiring, possessing
30 and protecting property, and ~~of~~ seeking their safety, health

1 and happiness in all lawful ways. In enjoying these rights,
2 ~~the-people~~ all persons recognize corresponding responsibili-
3 ties.

4 Section 4. INDIVIDUAL DIGNITY. The dignity of the
5 human being is inviolable. No person shall be denied the
6 equal protection of the laws~~7. nor-be-discriminated~~ Neither
7 the state nor any person, firm, corporation, or institution
8 shall discriminate against any person in the exercise of his
9 civil or political rights on account of race, color, sex,
10 culture, social origin or condition, or political or reli-
11 gious ideas~~7. by-any-person,-firm,-corporation,-or-institu-~~
12 ~~tion,-or-by-the-state,-its-agencies-or-subdivisions.~~

13 Section 5. FREEDOM OF RELIGION. The state ~~of-Montana~~
14 shall make no law respecting an establishment of religion,
15 or prohibiting the free exercise thereof.

16 Section 6. FREEDOM OF ASSEMBLY. The people shall
17 have the right ~~peaceably~~ to assemble, peaceably in order to
18 petition for redress of grievances or ~~peaceably~~ protest
19 governmental action.

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21 No law shall be passed impairing the freedom of speech or
22 expression. Every person shall be free to speak or publish
23 whatever he will on any subject, being responsible for all
24 abuse of that liberty. In all suits and prosecutions for
25 libel or slander the truth thereof may be given in evidence;
26 and the jury, under the direction of the court, shall
27 determine the law and the facts.

28 Section 8. RIGHT OF PARTICIPATION. The public ~~shall~~
29 ~~have~~ has the right to expect governmental agencies to afford
30 such reasonable opportunity for citizen participation in the

1 operation of the agencies prior to the final decision, as
2 may be provided by law.

3 Section 9. RIGHT TO KNOW. No person shall be deprived
4 of the right to examine documents or to observe the deliber-
5 ations of all public bodies or agencies of state government
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7 of individual privacy clearly exceeds the merits of public
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15 from unreasonable searches and seizures, and No warrant to
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18 or thing to be seized, ~~nor~~ or without probable cause,
19 supported by oath or affirmation, reduced to writing.

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21 person to keep or bear arms in defense of his own home,
22 person, a d property, or in aid of the civil power when
23 thereto legally summoned, shall not be called in question,
24 but nothing herein contained shall be held to permit the
25 carrying of concealed weapons.

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27 be free and open, and no power, civil or military, shall
28 at any time interfere to prevent the free exercise of the
29 right of suffrage.

30 Section 14. ADULT RIGHTS. A ~~P~~persons eighteen {18}

1 years of age or older are-declared-to-be-adults is an adult
2 for all purposes.

3 Section 15. RIGHTS OF PERSONS ~~UNDER-THE-AGE-OF~~
4 ~~MAJORITY~~ NOT ADULTS. The rights of persons under the 18
5 years of age ~~of-majority~~ shall include, but not be limited
6 to, all the fundamental rights of this article ~~except-where~~
7 unless specifically precluded by laws which enhance the
8 protection ~~for~~ of such persons.

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10 justice shall be open to every person, and speedy remedy
11 afforded for every injury of person, property, or character;.
12 No person shall be deprived of this full legal redress for
13 injury incurred in employment for which another person may
14 be liable except as to fellow employees and his immediate
15 employer who hired him if such immediate employer provides
16 coverage under the Workmen's Compensation Laws of this
17 state; ~~and-that~~ Right and justice shall be administered
18 without sale, denial, or delay.

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20 deprived of life, liberty, or property without due process
21 of law.

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23 The state, ~~and-its-subdivisions~~ counties, cities, towns, and
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26 provision shall apply only to causes of action arising after
27 ~~June~~ July 1, 1973.

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29 of habeas corpus shall never be suspended.

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1 offenses within the jurisdiction of which any courts
2 inferior to the district courts ~~have jurisdiction~~ shall be
3 prosecuted by complaint. All criminal actions in district
4 court, except those on appeal, shall be prosecuted either
5 by information, after examination and commitment by a
6 magistrate, or after leave granted by the court, or ~~shall~~
7 ~~be prosecuted~~ by indictment without such examination, or
8 commitment, or ~~without such leave of the court.~~

9 (2) A grand jury shall consist of eleven persons,
10 of whom eight must concur to find an indictment. A grand
11 jury shall only be drawn and summoned when only at the
12 discretion and order of the district judge ~~shall, in his~~
13 ~~discretion, consider it necessary, and shall so order.~~

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15 sufficient sureties, except for capital offenses, when
16 the proof is evident or the presumption great.

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21 for the purpose of securing his testimony in any criminal
22 proceeding longer than may be necessary in order to take
23 his deposition. If he can give security for his appear-
24 ance at the time of trial, he shall be discharged upon
25 giving the same; if he cannot give security, his deposition
26 shall be taken in the manner ~~prescribed~~ provided by law, and
27 in the presence of the accused and his counsel, or without
28 their presence, if they shall fail to attend the examination
29 after reasonable notice of the time and place thereof. Any
30 deposition authorized by this section may be received as

1 evidence on the trial, if the witness shall be dead or
2 absent from the state.

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5 and defend in person and by counsel; to demand the nature
6 and cause of the accusation; to meet the witnesses against
7 him face to face; to have process to compel the attendance
8 of witnesses in his behalf, and a speedy public trial by
9 an impartial jury of the county or district in which
10 the offense is alleged to have been committed, subject
11 to the right of the state to have a change of venue for
12 any of the causes for which the defendant may obtain the
13 same.

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15 No person shall be compelled to testify against himself
16 in a criminal proceeding~~7~~. ~~nor shall any~~ No person shall
17 be ~~twice~~ again put in jeopardy for the same offense previous-
18 ly tried in any jurisdiction.

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20 jury ~~shall be~~ is secured to all~~7~~, and shall remain inviolate~~7~~.
21 ~~but in all cases and~~ But upon default of appearance~~7~~ or by
22 consent of the parties expressed in such manner as the law
23 may ~~prescribe~~~~7~~ provide, all cases may be tried without a
24 jury or before fewer ~~a trial by jury may be waived, or a~~
25 ~~trial had by any less~~ than the number of jurors ~~than the~~
26 ~~number~~ provided by law. In all civil actions, two-thirds in
27 ~~number~~ of the jury may render a verdict, and such a verdict
28 so rendered shall have the same force and effect as if all
29 ~~such jury~~ had concurred therein. In all criminal actions, the
30 verdict shall be unanimous.

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14 sation to the full extent of the loss having been first
15 made to or paid into court for the owner. In the event of
16 litigation, just compensation shall include necessary
17 expenses of litigation to be awarded by the court when the
18 private property owner ~~is the prevailing party~~ prevails.

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21 it, or in adhering to its enemies, giving them aid and
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23 the testimony of two witnesses to the same overt act, or
24 on his confession in open court; no person shall be attainted
25 of treason or felony by the ~~legislative assembly;~~ legislature;
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27 tives or heirs of the convicted. The estates of suicides
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6 military shall always be in strict subordination to the
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9 of war, except in the manner ~~prescribed~~ provided by law.

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11 person or persons or armed body of men shall be brought
12 into this state for the preservation of the peace, or the
13 suppression of domestic violence, except upon the applica-
14 tion of the ~~legislative-assembly~~, legislature, or of the
15 governor when the ~~legislative-assembly~~ legislature cannot
16 be convened.

17 Section 34. UNENUMERATED RIGHTS. The enumeration in
18 this constitution of certain rights shall not be construed
19 to deny, impair, or disparage others retained by the people.

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21 The people ~~of-Montana~~ declare that Montana servicemen,
22 servicewomen, and veterans may be given special considera-
23 tions as determined by the ~~legislative-assembly~~: legislature.
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REPORT NO. VIII - BILL OF RIGHTS
COMMENTS ON STYLE, FORM, AND GRAMMAR

Introduction: The Committee on Style, sensitive to the point made by the substantive committee's comments that some "political philosophy provisions are not often immediately justiciable," has stayed its editorial hand.

Section 1. Punctuation changes serve clarity and do not alter substance.

Section 2. Deleting "of the state" from the first sentence avoids repetition. Changing the third person plural possessive pronoun "their" to the definite article makes plain the function of a constitution is to constitute the organic law of the state rather than to establish a possessory relationship between the people and the instrument.

Section 3. Structural changes serve clarity without altering substance.

Section 4. The word "law" was made plural to agree with the parent 14th Amendment. Alteration of the form, but not the substance, of the second sentence makes the prohibition crystal clear. Countless court decisions make plain that a prohibition directed against the "state" includes all its arms, including "agencies or subdivisions."

Section 6. Words were added to clarify the intention of the substantive committee expressed in its comment to this section. As rewritten, the section makes plain that it protects one right - "to assemble peaceably" - for two purposes: (1) to petition for redress of grievances or (2) to protest governmental action.

Section 8. Adding "such" and "may be" does not alter

1 substance. The additions were necessitated by the floor
2 amendment having been appended.

3 Section 11. Slight changes clarify without altering
4 substance.

5 Section 14. The form was changed to consist with
6 drafting standards.

7 Section 15. The title and content were changed to
8 accord with the substance of section 14.

9 Section 18. The substituted phrase is the same as
10 that adopted for the same purpose in the Article on
11 REVENUE AND TAXATION. The second sentence should be moved
12 to the adoption schedule. (Suggestion for title: SOVEREIGN
13 IMMUNITY IS DEAD! LONG LIVE THE KING!)

14 Section 20. Changes in form do not alter substance.

15 Sections 21, 22, 23, and 24. "Once burned, twice shy."
16 The substantive committee comments to each section read
17 that the committee voted unanimously to retain the old
18 section unchanged. So

19 Section 25. Changes remove redundancy.

20 Section 26. Rewriting for clarity does not alter sub-
21 stance.

22 Section 27. "The committee voted unanimously to retain
23 former Article III, Section 12 unchanged."

24 Section 28. Rewriting makes plain that it is the act of
25 termination of state supervision which restores "all civil and
26 political rights." That phrase from the substantive committee
27 comments specifies "full rights." The proposal: "Death shall
28 not be prescribed as a penalty for any crime against the state."
29 will be placed on the ballot, as directed by the Convention.

30 Sections 30, 31, 32, 33, 34. The substantive committee

1 voted unanimously to preserve these provisions unchanged.
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STYLE AND DRAFTING - BILL OF RIGHTS - NO. VIII

MAR 17 1972

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16 expression. Every person shall be free to speak or publish
17 whatever he will on any subject, being responsible for all
18 abuse of that liberty. In all suits and prosecutions for
19 libel or slander the truth thereof may be given in evidence;
20 and the jury, under the direction of the court, shall
21 determine the law and the facts.

22 Section 8. RIGHT OF PARTICIPATION. The public has the
23 right to expect governmental agencies to afford such reason-
24 able opportunity for citizen participation in the operation
25 of the agencies prior to the final decision as may be
26 provided by law.

27 Section 9. RIGHT TO KNOW. No person shall be deprived
28 of the right to examine documents or to observe the
29 deliberations of all public bodies or agencies of state
30 government and its subdivisions, except in cases in which

1 the demand of individual privacy clearly exceeds the
2 merits of public disclosure.

3 Section 10. RIGHT OF PRIVACY. The right of indivi-
4 dual privacy is essential to the well-being of a free
5 society and shall not be infringed without the showing of
6 a compelling state interest.

7 Section 11. SEARCHES AND SEIZURES. The people shall
8 be secure in their persons, papers, homes and effects from
9 unreasonable searches and seizures. No warrant to search
10 any place, or seize any person or thing shall issue with-
11 out describing the place to be searched or the person or
12 thing to be seized, or without probable cause, supported
13 by oath or affirmation reduced to writing.

14 Section 12. RIGHT TO BEAR ARMS. The right of any
15 person to keep or bear arms in defense of his own home,
16 person, and property, or in aid of the civil power when
17 thereto legally summoned, shall not be called in question,
18 but nothing herein contained shall be held to permit the
19 carrying of concealed weapons.

20 Section 13. RIGHT OF SUFFRAGE. All elections shall
21 be free and open, and no power, civil or military, shall
22 at any time interfere to prevent the free exercise of the
23 right of suffrage.

24 Section 14. ADULT RIGHTS. A person 18 years of age
25 or older is an adult for all purposes.

26 Section 15. RIGHTS OF PERSONS NOT ADULTS. The rights
27 of persons under 18 years of age shall include, but not be
28 limited to, all the fundamental rights of this article
29 unless specifically precluded by laws which enhance the
30 protection of such persons.

1 Section 16. THE ADMINISTRATION OF JUSTICE. Courts of
2 justice shall be open to every person, and speedy remedy
3 afforded for every injury of person, property, or character.
4 No person shall be deprived of this full legal redress for
5 injury incurred in employment for which another person may
6 be liable except as to fellow employees and his immediate
7 employer who hired him if such immediate employer provides
8 coverage under the Workmen's Compensation Laws of this
9 state. Right and justice shall be administered without
10 sale, denial, or delay.

11 Section 17. DUE PROCESS OF LAW. No person shall be
12 deprived of life, liberty, or property without due process
13 of law.

14 Section 18. STATE SUBJECT TO SUIT. The state, counties,
15 cities, towns, and all other local governmental entities
16 shall have no immunity from suit for injury to a person or
17 property. This provision shall apply only to causes of action
18 arising after July 1, 1973.

19 Section 19. HABEAS CORPUS. The privilege of the writ
20 of habeas corpus shall never be suspended.

21 Section 20. INITIATION OF PROCEEDINGS. (1) Criminal
22 offenses within the jurisdiction of any court inferior to the
23 district court shall be prosecuted by complaint. All criminal
24 actions in district court, except those on appeal, shall be
25 prosecuted either by information, after examination and commit-
26 ment by a magistrate or after leave granted by the court, or
27 by indictment without such examination, commitment or leave.

28 (2) A grand jury shall consist of eleven persons,
29 of whom eight must concur to find an indictment. A grand
30 jury shall be drawn and summoned only at the discretion and

1 order of the district judge.

2 Section 21. BAIL. All persons shall be bailable by
3 sufficient sureties, except for capital offenses, when
4 the proof is evident or the presumption great.

5 Section 22. EXCESSIVE SANCTIONS. Excessive bail
6 shall not be required, or excessive fines imposed, or
7 cruel and unusual punishments inflicted.

8 Section 23. DETENTION. No person shall be imprisoned
9 for the purpose of securing his testimony in any criminal
10 proceeding longer than may be necessary in order to take
11 his deposition. If he can give security for his appear-
12 ance at the time of trial, he shall be discharged upon
13 giving the same; if he cannot give security, his deposition
14 shall be taken in the manner provided by law, and in the
15 presence of the accused and his counsel, or without their
16 presence, if they shall fail to attend the examination
17 after reasonable notice of the time and place thereof.

18 Section 24. RIGHTS OF THE ACCUSED. In all criminal
19 prosecutions the accused shall have the right to appear
20 and defend in person and by counsel; to demand the nature
21 and cause of the accusation; to meet the witnesses against
22 him face to face; to have process to compel the attendance
23 of witnesses in his behalf, and a speedy public trial by
24 an impartial jury of the county or district in which
25 the offense is alleged to have been committed, subject
26 to the right of the state to have a change of venue for
27 any of the causes for which the defendant may obtain the
28 same.

29 Section 25. SELF-INCRIMINATION AND DOUBLE JEOPARDY.
30 No person shall be compelled to testify against himself

1 in a criminal proceeding. No person shall be again put
2 in jeopardy for the same offense previously tried in any
3 jurisdiction.

4 Section 26. TRIAL BY JURY. The right of trial by
5 jury is secured to all and shall remain inviolate. But
6 upon default of appearance or by consent of the parties
7 expressed in such manner as the law may provide, all cases
8 may be tried without a jury or before fewer than the number
9 of jurors provided by law. In all civil actions, two-thirds
10 of the jury may render a verdict, and a verdict so rendered
11 shall have the same force and effect as if all had concurred
12 therein. In all criminal actions, the verdict shall be
13 unanimous.

14 Section 27. IMPRISONMENT FOR DEBT. No person shall
15 be imprisoned for debt except in the manner provided by
16 law, upon refusal to deliver up his estate for the bene-
17 fit of his creditors, or in cases of tort, where there
18 is strong presumption of fraud.

19 Section 28. RIGHTS OF THE CONVICTED. Laws for the
20 punishment of crime shall be founded on the principles of
21 prevention and reformation. Full rights are restored by
22 termination of state supervision for any offense against
23 the state.

24 Section 29. EMINENT DOMAIN. Private property shall
25 not be taken or damaged for public use without just
26 compensation to the full extent of the loss having been first
27 made to or paid into court for the owner. In the event of
28 litigation, just compensation shall include necessary
29 expenses of litigation to be awarded by the court when the
30 private property owner prevails.

1 Section 30. TREASON AND DESCENT OF ESTATES. Treason
2 against the state shall consist only in levying war against
3 it, or in adhering to its enemies, giving them aid and
4 comfort; no person shall be convicted of treason except on
5 the testimony of two witnesses to the same overt act, or
6 on his confession in open court; no person shall be attaint-
7 ed of treason or felony by the legislature; no conviction
8 shall cause the loss of property to the relatives or heirs
9 of the convicted. The estates of suicides shall descend or
10 vest as in cases of natural death.

11 Section 31. EX POST FACTO, OBLIGATION OF CONTRACTS,
12 AND IRREVOCABLE PRIVILEGES. No ex post facto law nor any
13 law impairing the obligation of contracts, or making any
14 irrevocable grant of special privileges, franchises, or
15 immunities, shall be passed by the legislature.

16 Section 32. CIVILIAN CONTROL OF THE MILITARY. The
17 military shall always be in strict subordination to the
18 civil power; no soldier shall in time of peace be
19 quartered in any house without the consent of the owner,
20 nor in time of war, except in the manner provided by law.

21 Section 33. IMPORTATION OF ARMED PERSONS. No armed
22 person or persons or armed body of men shall be brought
23 into this state for the preservation of the peace, or the
24 suppression of domestic violence, except upon the
25 application of the legislature, or of the governor when
26 the legislature cannot be convened.

27 Section 34. UNENUMERATED RIGHTS. The enumeration in
28 this constitution of certain rights shall not be construed
29 to deny, impair, or disparage others retained by the people.

30 Section 35. SERVICEMEN, SERVICEWOMEN, AND VETERANS.

1 The people declare that Montana servicemen, servicewomen,
2 and veterans may be given special considerations determined
3 by the legislature.